

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Ramon Marquez R., 36468-048,)	C/A No.: 9:07-0128-JFA-GCK
)	
Petitioner,)	
vs.)	O R D E R
)	
Bureau of Prisons and Warden, FCI-Estill,)	
)	
Respondents.)	
_____)	

The *pro se* petitioner, Ramon Marquez R., initiated this action pursuant to 28 U.S.C. § 2241 contending that the federal Bureau of Prisons is improperly withholding prior custody credit from being awarded toward his current term of federal imprisonment.

The respondents filed a motion for summary judgment. An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying petitioner of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Petitioner did not respond to the motion. The Magistrate Judge noted in his Report and Recommendation that the envelope containing the Roseboro order was returned to the court as the petitioner was no longer incarcerated.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate

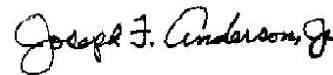
Recommendation wherein he suggests that this action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on July 18, 2007. He did not file objections² to the Report.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper and the Report is incorporated herein by reference.

Accordingly, this action is dismissed for lack of prosecution pursuant to Fed. R. Civ. P. Rule 41(b).

IT IS SO ORDERED.

August 14, 2007
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

² Under 28 U.S.C. § 636(b)(1), the district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's Report to which objections have been filed. The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to timely file specific written objections to the Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).